# Supreme Court of the United States

OCTOBER TERM, 1965

## No. 968

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ROBERT A. BELL, JR., PETITIONER

*vs.*

TEXAS

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ON WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS OF TEXAS

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INDEX

[fol. 1]

IN THE DISTRICT COURT OF UPTON COUNTY, TEXAS
112th JUDICIAL DISTRICT

No. 304

THE STATE OF TEXAS

*vs.*

ROBERT A. BELL, JR.

[fol. 2]

IN THE DISTRICT COURT
OF UPTON COUNTY, TEXAS

[File Endorsement Omitted]

INDICTMENT—Filed August 1, 1964

IN THE NAME AND BY THE AUTHORTIY OF THE STATE OF TEXAS:

The Grand Jurors, duly selected, organized, sworn and impaneled as such for the County of Upton, State of Texas, at the June, A. D. 1964, Term of the 112th District Court for said County, upon their oaths present in and to said Court that on or about the 13th day of December, A. D. 1963, and before the presentment of this indictment, in the County and State aforesaid, Robert A. Bell, Jr. did, then and there unlawfully in and upon G. E. Wolfrum make an assault and did then and there, by the said assault, and by violence to the said G. E. Wolfrum, and by putting the said G. E. Wolfrum in fear of life and bodily injury, did then and there fraudulently, and without the consent of the said G. E. Wolfrum, take from the person and possession of him, the said G. E. Wolfrum,

one thousand dollars cash, the same being the corporal personal property of the said G. E. Wolfrum, with the intent to deprive the said G. E. Wolfrum of the same and to appropriate the same to the use and benefit of him, the said Robert A. Bell, Jr., against the peace and dignity of the State; which offense is less than capital;

And the Grand Jurors aforesaid do further present that prior to the commission of the aforesaid offense by the said Robert A. Bell, Jr., that, on the 16th day of November, 1953, in the United States District Court for the Southern District of Texas, Victoria Division, in cause No. CR. 649 on the docket styled, "United States of America vs. Robert Alexander Bell, Jr.," the said Robert A. Bell, Jr., was duly and legally convicted in said last named court of a felony, less than capital, and one of like character as alleged against him in the first paragraph hereof, to-wit, Bank Robbery, upon indictment then legally pending in said last named court and which said court had jurisdiction; and that on the 3rd day of December, 1953, in the same said cause in the last named court, the said Robert A. Bell, Jr., was sentenced pursuant to the said conviction but that the execution of said sentence was suspended and said Robert A. Bell, Jr., was placed on probation; and that thereafter, to-wit, on the 19th day of April, 1957, in the same said cause in the last named court, said probation was revoked and the said conviction thereby and then and there became final; and said conviction was for an offense committed by the said Robert A. Bell, Jr., prior to the commission of the offense hereinbefore charged against him as set forth in [fol. 3] the first paragraph hereof; and the said conviction was final prior to the commission of the offense hereinbefore charged against him as set forth in the first paragraph hereof; and he, the said Robert A. Bell, Jr., was and is the same person who was convicted in cause No. CR. 649 in the United States District Court for the Southern District of Texas, Victoria Division.

against the peace and dignity of the State.

/s/ JOHN P. GODWIN
Foreman of the Grand Jury

[fol. 4]

IN THE DISTRICT COURT
OF UPTON COUNTY, TEXAS

[File Endorsement Omitted]

PRECEPT TO SERVE COPY OF INDICTMENT—Filed August 1, 1964

THE STATE OF TEXAS

TO THE SHERIFF OF UPTON COUNTY, SAID STATE, GREETING:

YOU ARE HEREBY COMMANDED to deliver forthwith to Robert A. Bell, Jr., now in your custody, the accompanying certified Copy of Indictment in Cause No. 304, THE STATE OF TEXAS vs. ROBERT A. BELL, now pending in the District Court of Upton County, Texas, and to make due return of this writ without delay.

Issued and given under my hand and seal of Office, this 1st day of August, A.D. 1964.

(SEAL)

/s/ NANCY K. DAUGHERTY, Clerk,
District Court, Upton County, Texas.

By ..... Deputy.

SHERIFF'S RETURN

Came to hand on the 1 day of Aug., A. D. 1964, at 2:00 o'clock P. M., and executed on the same day, by delivering to the within named defendant, Robert A. Bell, Jr., in person, a certified copy of indictment as directed by this writ.

Returned on the 1 day of Aug., A. D. 1964.

H. E. ECKOLS Sheriff,
Upton Co., Texas.

By S. O. LANGFORD, Deputy.

[fol. 5]

IN THE DISTRICT COURT
OF UPTON COUNTY, TEXAS

No. 304

[File Endorsement Omitted]

[Title Omitted]

MOTION TO QUASH INDICTMENT—Filed August 12, 1964

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, ROBERT A. BELL, JR., the Defendant in the above styled and numbered cause, and moves the indictment be quashed in this cause and set aside for the following reasons:

I.

That the indictment herein alleges as a part of the indictment the primary count of robbery by assault, and the prior conviction of the Defendant on another offense, and is prejudicial and inflammatory to the jury and precludes the Defendant from his constitutional right under the 6th amendment of the Constitution of the United States to be tried by a fair and impartial jury and likewise a denial of due process under the 5th and 14th amendments of the Constitution of the United States.

/s/ HOWARD O. LAKE
Attorney for Defendant
405 Scanlan Building
Houston 2, Texas CA 4-9249

[fol. 6]

IN THE DISTRICT COURT
OF UPTON COUNTY, TEXAS

No. 304

[File Endorsement Omitted]

[Title Omitted]

ORDER OVERRULING MOTION TO QUASH—August 12, 1964

This the 12th day of August, 1964, the foregoing cause being called for trial, the State appeared by her District Attorney and the Defendant in person and by his attorneys of record and the Defendant filed the foregoing motion to quash the indictment in said cause which motion was heard and considered and is overruled by the Court.

/s/ CHARLES SHERRILL
Judge

Excepted To

/s/ HOWARD O. LAKE
HOWARD O. LAKE
Attorney for Defendant

[fol. 7]

IN THE DISTRICT COURT
OF UPTON COUNTY, TEXAS
112TH JUDICIAL DISTRICT

No. 304

THE STATE OF TEXAS, PLAINTIFF

*v.*

ROBERT A. BELL, JR., DEFENDANT

**STATEMENT OF FACTS—AUGUST 12, 1964**

THE ABOVE STYLED CAUSE came on to be heard before the Honorable Charles E. Sherrill, Judge Presiding, sitting with a Jury, commencing at 10:00 a.m., on August 12, 1964, when the following proceedings were had and done:

APPEARANCES

MR. DIXON MAHON, District Attorney, and MR. JOHN MENEFEE, County Attorney of Upton County, for the State.

MR. HOWARD LAKE, of Houston, Texas, MR. THOMAS R. SCOTT, of Fort Stockton, Texas, and MR. AUBREY EDWARDS, of Big Lake, Texas, for the Defendant.

[fol. 8] PROCEEDINGS

(Thereupon, the jury panel was called, sworn and qualified by the Court; after which preliminary motions were presented by the State and Defense; the panel was examined by both counsel, a jury selected, seated and sworn; after which the court was in recess from 11:10 a.m., to 1:00 p.m., of the same day, when the court reconvened pursuant to the recess:)

THE COURT: Are you ready to proceed?

MR. MAHON: Ladies and gentlemen, I am now going to read the indictment about which we talked this morn-

ing. This is the charge and the allegations which the State expects to prove.

(Thereupon, the indictment was read:)

MR. MAHON: To which indictment the defendant pleads?

MR. LAKE: Not guilty.

THE COURT: Thank you, gentlemen.

## EVIDENCE ON BEHALF OF THE STATE.

### Offers in Evidence

MR. MAHON: Your Honor, first we would like to offer into evidence, as State's Exhibit #1, the indictment, the judgment, the sentence placing the defendant upon probation and the order revoking such probation in Cause Number 649—CR 649, in the United States District Court for the Southern District of Texas, Victoria Division, in a case entitled United States of America versus Robert Alexander Bell, Jr.

[fol. 9] MR. LAKE: Your Honor, may we have a moment to go over these?

THE COURT: Yes, sir.

MR. LAKE: If the Court please, we would take these instruments in the following order; I think the proper order would be the indictment first.

THE COURT: Yes.

MR. LAKE: We object to the introduction of this instrument first on the ground it is hearsay, and secondly on the ground that this indictment alleges robbery by assault in the indictment, and no where in the indictment is this charge referred to as bank robbery as set out in the indictment in this case, and third, on the ground the indictment itself is not—the indictment does not show that this is an offense less than capital as alleged in the indictment here involved.

THE COURT: To which the Court overrules the objections. You have your exception, sir.

MR. LAKE: Note our exception, if the Court please.

I believe the next in order would be the conviction—or the final judgment and sentence—no, I believe the

next in order would be the judgment of guilty in that particular cause and to that instrument, we likewise make the same objection, as it would be hearsay in this cause, and likewise that it does not show in the judgment that it is for an offense less than capital.

THE COURT: The same ruling. You are expressly overruled. You have your exception.

[fol. 10] MR. LAKE: Note our exception to that, if the Court please.

I believe the next instrument in order would be the final judgment and sentence, which was a suspended sentence in that cause.

To those instruments, we likewise object to it on the ground it is hearsay and that the sentence shown in this particular cause shows that the sentence in this court in this cause was pronounced in Houston, Texas, whereas the cause referred to in the indictment was alleged to have been committed and the original sentence imposed in Victoria, and further on the ground there is no showing this is for an offense less than capital.

THE COURT: You are expressly overruled. You have your exception, sir.

MR. LAKE: Note our exception, and finally to the judgment of the District Court of the Southern District of Texas, Victoria Division, this is the judgment revoking the suspended sentence, to which we likewise file the objections on the ground that this is hearsay and that this instrument does not show it was for an offense less than capital and likewise this judgment revoking the suspended sentence was likewise issued out of the Houston court, whereas the original sentence was made in Victoria.

THE COURT: You are expressly overruled. You do have your exception.

MR. LAKE: Note our exception.

THE COURT: It is admitted.

[fol. 11] MR. MAHON: I am going to read it to the jury.

THE COURT: Excuse me, counsel, would you approach the bench?

(Thereupon, the following occurred at the bench, outside the hearing of the jury:)

MR. LAKE: While we are here before the bench, may I make, in order that I do not waive the first motion I made this morning, may I renew my motion on the reading of these prior offenses, on the same ground alleged in our motion to quash?

THE COURT: Fine.

MR. LAKE: In that it is a violation of his constitutional rights of the United States.

THE COURT: Fine. Thank you.

MR. LAKE: That will be overruled, I take it?

THE COURT: Yes, you are overruled. You have your exception.

MR. LAKE: Note our exception.

Your Honor, I believe it will show in these instruments that the judgment was for a plea on Count I only and for that reason I believe Count II would be immaterial and I think the jury should be instructed at this point there was no finding on Count II in this particular indictment. I believe the record will show that.

MR. MAHON: This is right, Judge, and we ask you to so rule.

THE COURT: The jury will disregard the reading of [fol. 12] the portion of Count II there.

MR. MAHON: I just won't read it.

(Thereupon, said documents were received in evidence as State's Exhibit #1, were read to the jury, and same is attached hereto, at this point:)

[fol. 13]

Judgment and Commitment (Rev. 7-52)

STATE'S EXHIBIT NO. 1

Microfilmed

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

No. Cr. 649

UNITED STATES OF AMERICA

*v.*

ROBERT ALEXANDER BELL, JR.

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On this 19th day of April, 1957 came the attorney for the government and the defendant appeared in person and [1] by counsel.

IT IS ADJUDGED that the defendant has violated the terms of probation provided in the Final Judgment and Sentence entered on December 3, 1953, convicting him of the offense of bank robbery, in violation of Title 18, U. S. Code, Section 2113, and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the probation is revoked.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized

representative for imprisonment for a period of [4] THREE (3) YEARS.

TRUE COPY I CERTIFY
ATTEST:
V. BAILEY THOMAS, Clerk

By /s/ F. Matloch
Deputy Clerk

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ Joe Ingraham
United States District Judge.

The Court recommends commitment to: [6]

APPROVED: /s/ Illegible

Clerk

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[1] Insert "by counsel" or "without counsel; the court advised the defendant of his right to counsel and asked him whether he desired to have counsel appointed by the court, and the defendant thereupon stated that he waived the right to the assistance of counsel." [2] Insert (1) "guilty," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendere," as the case may be. [3] Insert "in count(s) number " if required. [4] Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding or unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law. [5] Enter any order with respect to suspension and probation. [6] For use of Court wishing to recommend a particular institution.

[fol. 14]

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION
(SITTING AT HOUSTON, TEXAS)

CR. No. 649

FINAL JUDGMENT AND SENTENCE
(SUSPENDED)

UNITED STATES OF AMERICA

*vs.*

ROBERT ALEXANDER BELL, JR.

On this 3rd day of December, 1953, came the attorney for the United States of America, and the defendant, Robert Alexander Bell, Jr. appeared in person and with counsel, and defendant and counsel stated to the Court that they desired sentence to be imposed at Houston, Texas, waiving right to be sentenced at Victoria, Texas.

It is adjudged that the defendant has been convicted upon his plea of guilty in accordance with the findings of the Court rendered in this cause on the 16th day of November, 1953, of the offense of bank robbery, Vio. Sec. 2113, Title 18, U. S. Code, as charged in count one of the Indictment, and the Court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court, and the defendant having been afforded an opportunity to make a statement in his own behalf and present and information in mitigation of punishment,

It is the sentence of the Court that the defendant be he is hereby committed to the custody of the Attorney General or his authorized representative for a period of FIVE (5) YEARS.

The execution of this sentence is suspended for the [fol. 15] term of five (5) years, conditioned on compliance with the terms of the general order of this court, dated August, 10, 1937, which order is made a part of this

sentence and defendant is placed under the supervision of the United States Probation Officer for the Victoria Division of this District.

/s/ James V. Allred
Judge

[fol. 16]

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

CR. No. 649

UNITED STATES OF AMERICA

*vs.*

ROBERT ALEXANDER BELL, JR.

JUDGMENT OF GUILTY

On this 16th day of November, 1953, came the attorney for the United States of America and the defendant, Robert Alexander Bell, Jr. appeared in person and with counsel, and both parties announcing ready, the said defendant, having been served with a copy of the indictment, was arraigned; whereupon the defendant entered a plea of guilty to count 1 of the indictment, whereupon the court, on motion of the United States Attorney, dismissed count 2 of the indictment.

And the Court, having heard the plea of the defendant and all questions of fact as well as of law, finds the defendant guilty as charged, in count 1 of the indictment.

It is considered by the Court that the defendant be, and he is hereby adjudged guilty of bank robbery, Vio. Sec. 2113, Title 18, U. S. Code as charged in count 1 of the indictment.

The probation officer is directed to make a presentence investigation, and this case is passed for sentence until Thursday, December 3, 1953, at Houston, Texas.

/s/ James V. Allred
Judge

[fol. 17]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

CR. No. 649

UNITED STATES OF AMERICA

*vs.*

ROBERT ALEXANDER BELL, JR.

INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

That on or about August 9, 1953, within the Victoria Division of the Southern District of Texas and within the jurisdiction of this Court, one ROBERT ALEXANDER BELL, JR. did, by force and violence and by intimidation, take from the person and presence of LaVerne H. Brieger certain property and money, to-wit: approximately Eight Hundred Eighty-one and No/100 Dollars ($881.00) in coin and currency belonging to and in the care, custody, control and possession of the First National Bank of Yorktown, Yorktown, Texas, a bank then organized and operating under the laws of the United States and a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation. Vio. Title 18, Section 2113, U. S. Code.

COUNT TWO

That on or about August 9, 1953, within the Victoria Division of the Southern District of Texas and within the jurisdiction of this Court, one ROBERT ALEXANDER BELL, JR. did take and carry away with intent to steal and purloin certain property and money of a value in excess of One Hundred Dollars ($100.00), to-wit: approximately Eight Hundred Eighty-one and

No/100 Dollars ($881.00) in coin and currency belonging to and in the care, custody, control and possession of the First National Bank of Yorktown, Yorktown, Texas, a bank then organized and operating under the laws of the [fol. 18] United States and a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation. Vio. Title 18, Section 2113, U. S. Code.

/s/ Illegible
Foreman of the Grand Jury

[s] Illegible
Assistant United States Attorney

WBB:hv

[fol. 19] MR. MAHON: May it please the Court, we now offer in evidence what purports to be a certification of records from the Warden of the Federal Penal Institution located at Seagoville, Texas.

MR. LAKE: May we approach the bench?

THE COURT: Please approach the bench.

MR. LAKE: Your Honor, we would object to these instruments for the following reason: First there is attached to these exhibits a certificate attachment; it certifies that these exhibits attached are true and correct copies of the original records, and the exhibits themselves are not certified. There is no certification that this picture or these finger prints are the original finger prints taken at the institution. The defense has no way of knowing whether or not these finger prints or this picture is merely a copy of prints or records that were made at some other institution and forwarded as a copy to this institution, or whether or not they were actually made at the institution and that the original copy of this

photograph and these prints is on file in that institution. We think since they are not certified as such that they are improper, and not identified as this individual in this particular case. We feel it is improper to certify copies merely by attaching a certificate and certifying to a group of exhibits rather than each exhibit itself. We feel each exhibit itself must be, on its own, certified as a copy of an original that is on file in that institution in order to qualify it to be admitted under Article 3737E.

MR. MAHON: Of course, nobody does that, not even a County Clerk. The statute clearly says a microfilm or [fol. 20] any other reproduction can be admitted.

THE COURT: The Court does overrule your objection. You have your exception.

MR. LAKE: Note our exception to that.

MR. MAHON: We offer this as State's Exhibit #2. Gentlemen, I will now read this exhibit to you.

(Thereupon, said exhibit was read to the jury.)

MR. LAKE: May it please the Court, in order that we do not waive our original objection in our motion to quash, may we at this time renew it to the introduction of these instruments at this time.

THE COURT: Your original objection as previously stated is overruled. You do have your exception.

Such instruments are admitted.

(Thereupon, said instruments were received in Evidence as State's Exhibit #2, and are attached at this point:)

[fol. 21] STATE'S EXHIBIT NO. 2

CERTIFICATION OF RECORDS

H. J. DAVIS hereby certifies as follows:

That he is the Warden or Superintendent of the Federal Penal Institution located at SEAGOVILLE, TEXAS and as such that he is the official custodian of the records of the said Federal Penal Institution, that the official name of the Federal Penal Institution of which he is the Warden or Superintendent is FEDERAL CORRECTIONAL INSTITUTION—SEAGOVILLE, TEXAS; and that the following and attached records are true and correct copies of original records of said Federal Penal Institutional pertaining to one:

BELL, Robert Alexander, Jr., Register No. 7644-ST and consisting of:

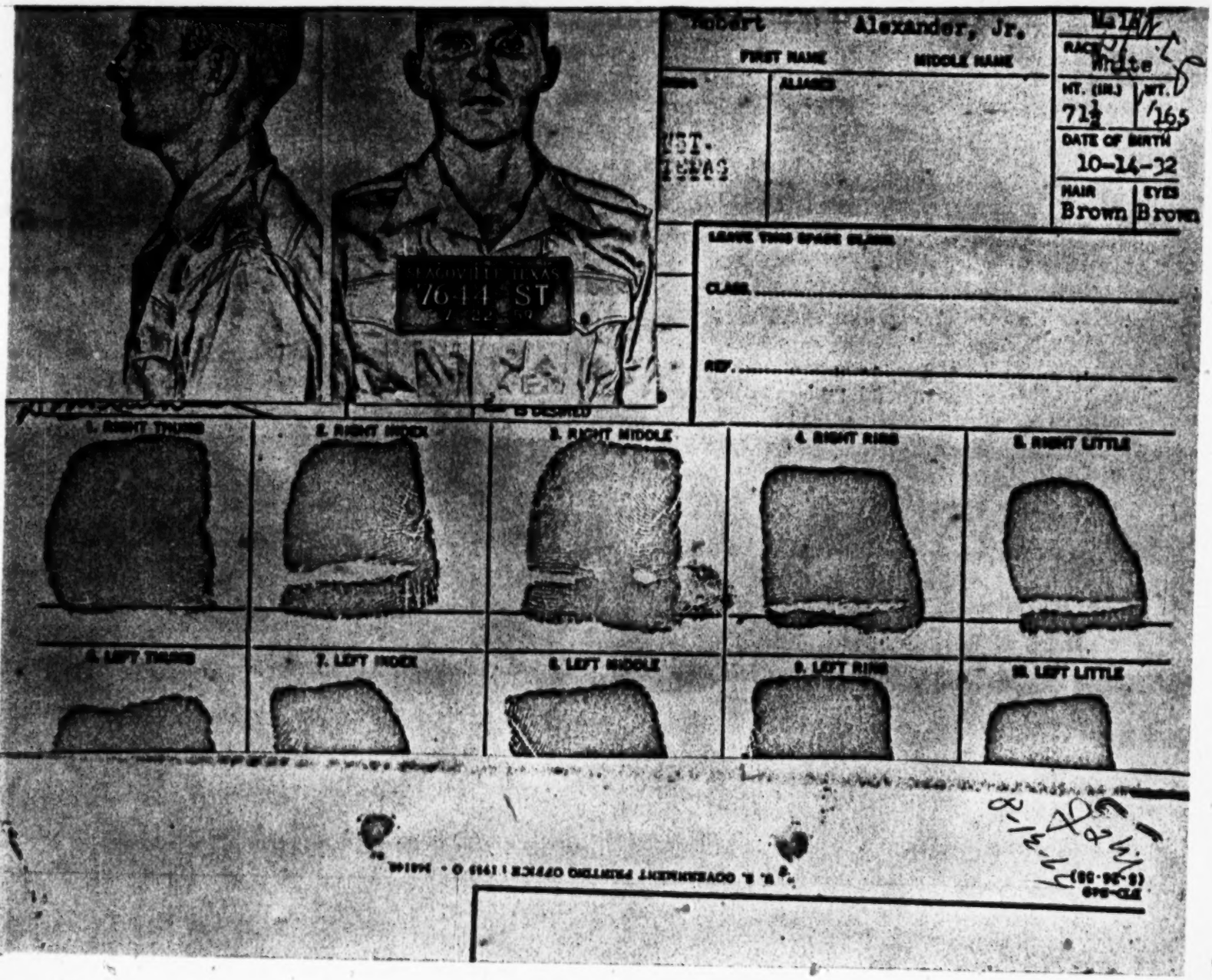
(1) Photograph (2) Fingerprint card and (3) Commitment

IN WITNESS WHEREOF, I have hereunto set my hand and seal at FCI, Seagoville, Texas this 10th day of July A.D. 1964.

/s/ H. J. Davis
Signature of Custodian
Warden
Title

On this 10th day of July, 1964.
H. J. DAVIS
(Name of Custodian)
subscribed and verified his name and title

/s/ D. M. Tunnell
D. M. TUNNELL, Notary Public
In and for Dallas County, Texas
(Signature of Notary or other officer
administering oath)


Robert Alexander, Jr.
FIRST NAME
MIDDLE NAME
ALIASES
RACE
White
HT. (IN.)
71½
WT.
165
DATE OF BIRTH
10-14-32
HAIR
Brown
EYES
Brown
LEAVE THIS SPACE BLANK
CLASS
REF.
1. RIGHT THUMB
2. RIGHT INDEX
3. RIGHT MIDDLE
4. RIGHT RING
5. RIGHT LITTLE
6. LEFT THUMB
7. LEFT INDEX
8. LEFT MIDDLE
9. LEFT RING
10. LEFT LITTLE
8-12-47

[fol. 22]

[redacted]

SIGNATURE OF PERSON FINGERPRINTED

[redacted]

RESIDENCE OF PERSON FINGERPRINTED

Houston, Texas

OCCUPATION

Oil Field Worker-Truck Driver

SCARS AND MARKS 10" scar on L.forearm, Artificial L. eye.

ARREST NUMBER

764-57

PLACE OF BIRTH

Tex.

CITIZENSHIP

U.S.

☐ CHECK IF NO RECORD IS DESIRED

SIGNATURE OF OFFICIAL TAKING FINGERPRINTS

DATE

7-23-59

CLASS

REF.

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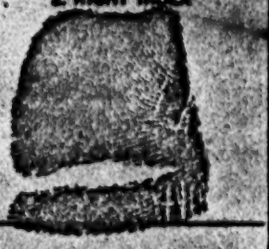
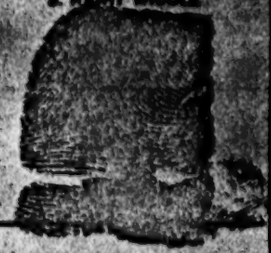
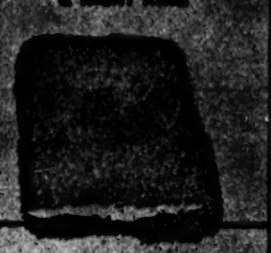
2. RIGHT INDEX



3. RIGHT MIDDLE



4. RIGHT RING

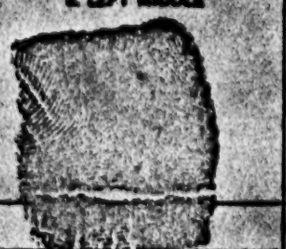


5. RIGHT LITTLE

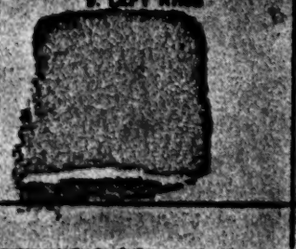
6. LEFT THUMB

7. LEFT INDEX

8. LEFT MIDDLE

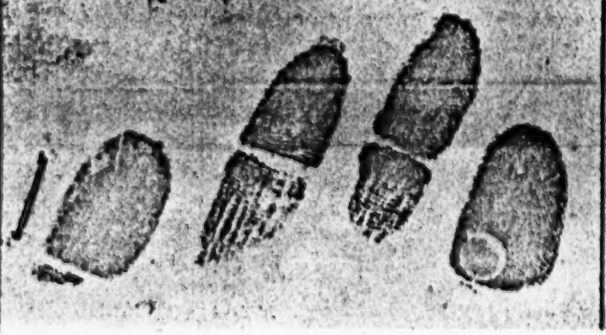


9. LEFT RING



10. LEFT LITTLE

LEFT FOUR FINGERS TAKEN SIMULTANEOUSLY



LEFT THUMB

RIGHT THUMB

RIGHT FOUR FINGERS TAKEN SIMULTANEOUSLY

[fol. 23]

[fol. 24]

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

No. Cr. 649

UNITED STATES OF AMERICA

*v.*

ROBERT ALEXANDER BELL, JR.

On this 19th day of April, 1957 came the attorney for the government and the defendant appeared in person and [1] by counsel.

IT IS ADJUDGED that the defendant has violated the terms of probation provided in the Final Judgment and Sentence entered on December 3, 1953, convicting him of the offense of bank robbery, in violation of Title 18, U. S. Code, Section 2113, as charged.

IT IS ADJUDGED that the probation is revoked.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of THREE (3) YEARS.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

JOE INGRAHAM
United States District Judge

The Court recommends commitment to:

APPROVED:

[fol. 25] MR. MAHON: Come around, Mr. Mercer.

JACK MERCER, called as a witness, being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (BY MR. MAHON:) Would you please state your name?

A Jack Mercer.

Q By whom are you employed, Mr. Mercer?

A The Texas Department of Public Safety at Austin, Texas.

Q What are your duties in that employment?

A My title is Latent Finger Print expert. I work with finger print classification and filing them.

Q What training have you had for that job, Mr. Mercer?

A Prior to my going to work with the department, I had a course at the Institute of Applied Science, which teaches a person to classify, search, file and identify fingerprints from the fingers and hands and so forth.

Q More or less just a quickly as possible, how do you go about identifying fingerprints?

A Fingerprints are various patterns, such as arches, loops and swirls, and in common language, it would be similar to a person looking at Fords, Dodges and Buicks and so forth, we look for different types of patterns and then examine the details of the pattern to determine if the patterns have the same identifying characteristics in them, and if they have, they are identical; if they do not [fol. 26] have these exact details and characteristics, they are not identical.

Q How long have you worked for the department?

A It will be 21 years in September.

Q I am going to hand you what purports to be some finger prints and ask you whether or not you can identify those?

A Yes, I can.

Q Would you tell us what they are?

A This is a set of fingerprints from the fingers of Robert Alexander Bell, Jr.

Q And, who took these prints?
A I took them this morning, sir.
Q Did you do that under the normal procedures?
A Yes, I did.
MR. LAKE: Your Honor, we would object to them at this time on the ground they have not been connected up and would be immaterial at this time.
Q Let me ask you one more question: Did you take these prints from any person here in the courtroom?
A Yes, I did. The person on the end of the table there.
Q Let the record reflect he is pointing to the defendant, Robert A. Bell, Jr.
We so offer them.
THE COURT: At this time, the court does admit them in evidence. You have your exception.
MR. LAKE: Note our exception.

(Thereupon, said document was received in evidence as State's Exhibit # 3, and is attached hereto at this point.)

STATE'S EXHIBIT NO. 3

LEAVE THIS SPACE BLANK

TYPE OR PRINT

LAST NAME FIRST NAME MIDDLE NAME

SEX RACE

HT. WT.

HAIR EYES

DATE OF BIRTH

PLACE OF BIRTH

CONTRIBUTOR AND ADDRESS

SHERIFF'S OFFICE
RANKIN, TEXAS

ALIASES

Robert Alexander Kelley
SIGNATURE OF PERSON FINGERPRINTED

8:45 am 8-12-64

Jack J. Warren

SCARS AND MARKS AMPUTATION

SIGNATURE OF OFFICIAL TAKING FINGERPRINTS DATE

YOUR NUMBER

PLACE FBI NUMBER HERE

CHECK IF NO REPLY IS DESIRED

LEAVE THIS SPACE BLANK

CLASS

REF.

1. RIGHT THUMB 2. RIGHT INDEX 3. RIGHT MIDDLE 4. RIGHT RING 5. RIGHT LITTLE

6. LEFT THUMB 7. LEFT INDEX 8. LEFT MIDDLE 9. LEFT RING 10. LEFT LITTLE

LEFT FOUR FINGERS TAKEN SIMULTANEOUSLY LEFT THUMB RIGHT THUMB RIGHT FOUR FINGERS TAKEN SIMULTANEOUSLY

[fol. 28] Q (BY MR. MAHON:) Now, Mr. Mercer, I am going to simply hand you State's Exhibit #2, which was the copy of the record from Seagoville, and also hand you Exhibit 3, which we just placed in evidence, and I would like for you to tell us first, have you seen this exhibit prior to this time?

A Yes, sir; I have.

Q Have you had an opportunity to examine these and compare these two records?

A Yes, sir, I have.

Q And in your opinion, as an expert, are they identical?

A Yes, they are identical, made by one and the same person.

MR. MAHON: Pass the witness.

## CROSS EXAMINATION

Q (BY MR. LAKE:) Mr. Mercer, this exhibit here you have identified as the one you took this morning, is that correct?

A That is correct, sir.

Q All right. Now, this State's Exhibit #2, that you have identified, has attached to it a separate piece of paper that identifies these prints as part of the records of the Federal Correctional Institution, you have no personal knowledge yourself of when or where these particular prints were made, do you?

A No, I do not.

Q As far as you are concerned, they could have been made anywhere? In this jail or anywhere else?

[fol. 29] A That is correct.

Q So, your identification is on the print you made as to the prints that you cannot testify as to their verification, when or where they were made?

A I cannot testify where they were made is correct.

MR. LAKE: That is all.

## REDIRECT EXAMINATION

Q (BY MR. MAHON:) But you are testifying, Mr. Mercer, that the print which I handed you, which were attached to the certification of records from the Federal

Correctional Institution in Seagoville, those prints and the prints you took this morning were identical?

A That is correct; made by one and the same person.

MR MAHON: That is all.

MR. LAKE: We have nothing further.

(Witness Excused.)

* * * *

[fol. 30]

IN THE DISTRICT COURT
OF UPTON COUNTY, TEXAS

No. 304

[File Endorsement Omitted]

[Title Omitted]

COURT'S CHARGE TO THE JURY—Filed August 12, 1964

GENTLEMEN OF THE JURY:

The defendant is on trial before you charged by indictment with the offense of robbery by assault, alleged to have been committed in the County of Upton and State of Texas, on or about the 13th day of December, 1963.

To this charge the defendant has entered his plea of not guilty.

For your guidance and instruction in arriving at a verdict, I charge you the law as follows:

1.

You are the exclusive judges of the facts proved, the weight of the evidence and the credibility of the witnesses; but the law you will receive from the Court contained in these written instructions and be governed thereby.

2.

In all criminal cases the burden of proof is upon the State to prove the guilt of the defendant beyond a reasonable doubt. The defendant in a criminal case is presumed to be innocent until his guilt is established by legal and competent evidence beyond a reasonable doubt, and if you have a reasonable doubt as to the defendant's guilt, you will acquit the defendant and say by your verdict "not guilty."

3.

You are limited in your deliberations to the consideration and discussion of such facts and circumstances only as were admitted in evidence, or as the reasonably deducible from the evidence, and you must not consider or discuss any facts or circumstances not thus in evidence or reasonably deducible from the evidence. No juror may lawfully relate to the others any fact or circumstance of which he may have knowledge or information not introduced in evidence, and you must not consider or discuss anything else, as far as the evidence is concerned, except evidence introduced by the parties, admitted by the Court, and not withdrawn from your consideration, and reasonable deductions from such evidence.

[fol. 31]

4.

You are instructed that the fact a Grand Jury bill of indictment has been returned in this case charging the defendant with the offense alleged in the indictment is not evidence of guilt.

5.

You are instructed that no act done in a state of insanity can be punished as an offense. Every man is presumed to be sane until the contrary appears to the jury trying him. He is presumed to entertain, until the contrary appears, a sufficient degree of reason to be responsible for his acts; and to estabilsh a defense on the ground of insanity, it must be shown by a preponderance of the evidence that, at the time or times inquired about, the party accused was laboring under such defect of

reason as not to know the nature and quality of the act he was doing, or if he did know, that he did not know he was doing wrong, that is, that he did not know the difference between the right and wrong as to the particular act charged against him. The insanity must have existed at the very time or times inquired about, that is, at the very time of the alleged commission of the offense, and the mind must have been so dethroned of reason as to deprive the person *accuzed* of a knowledge of the right and wrong as to the particular act done.

The burden of proof, as to insanity, is upon the defendant to prove his insanity by a preponderance of the evidence. By "preponderance of the evidence" is meant the greater weight of the credible testimony.

Now, if you believe from the evidence beyond a reasonable doubt that the defendant Robert A. Bell, Jr., did commit robbery by assault, as alleged in the indictment, but you further believe, by a preponderance of the evidence, that at the time he committed the said act, if he did, the defendant was then insane, as that term is herein defined for you, then you will find the defendant not guilty by reason of insanity and so state in your verdict.

6.

If any person, by assault, or by violence or by putting in fear or life or bodily injury, shall fraudulently take from the person or possession of another, any property with the intent to appropriate the same to his own use, he shall be guilty of robbery.

[fol. 32]

7.

The term "fraudulently take" as used in the preceding paragraph, means that the person or persons taking knew at the time of the taking, the property was not his, that the property was taken without the consent of G. E. Wolfrum, with the intent to deprive him of its value and to appropriate it to the taker's own use or benefit.

8.

The use of any unlawful violence upon the person of another with the intent to injure such person, whatever

be the means or degree of violence used, is an assault and battery. Any attempt to commit a battery, or any threatening gesture, showing in itself, or by words accompanying it, an immediate intention, coupled with an ability to commit a battery, is an assault.

9.

By the expression "coupled with an ability to commit a battery", is meant that the person making the assault must, at the time, be in such position and within such distance of the person assaulted to enable him to commit a battery by the means used.

10.

Bearing in mind the foregoing, you are further charged that if you find and believe from the evidence in this case beyond a reasonable doubt that on or about the 13th day of December, 1963, in the County of Upton, and State of Texas, Robert A. Bell, Jr. did then and there, by making an assault upon the person of G. E. Wolfrum, and by violence upon him and by putting the said G. E. Wolfrum in fear of life and bodily injury, and by such means did fraudulently take from the person and possession of the said G. E. Wolfrum, without his consent and against his will, One Thousand Dollars in cash, all of such being the corporeal *personlal* property of and belonging to the said G. E. Wolfrum, and that it was so taken, if it was, with the fraudulent intent then and there upon the part of him, the said Robert A. Bell, Jr., to deprive the said G. E. Wolfrum of the value of said property and with the intent then and there to appropriate the same to the use and benefit *no*f him, the said Robert A. Bell, Jr., then and in that event, you will find the defendant Robert A. Bell, Jr., guilty and assess his punishment at confinement in the penitentiary for any [fol. 33] term of not less than five years.

If you do not so believe or find or if you have a reasonable doubt thereof, you will acquit the defendant and so say by your verdict.

11.

You are charged that when one person owns property and another person has actual control, care and *mangement* of the same, the ownership may be alleged in either, and if you believe from the evidence that Evans Foodway was the actual owner of the money mentioned in the indictment and that G. E. Wolfrum had at the time of the alleged robbery actual control, care and management of the same, then I charge you as the law of this case, that the said G. E. Wolfrum was in law the owner and in possession of the same.

12.

Now, bearing in mind the foregoing definitions and instructions, if you believe from the evidence beyond a reasonable doubt that the said defendant on or about the 13th day of December, 1963, as alleged in the first paragraph of the indictment herein, in the County of Upton and State of Texas, did then and there commit robbery by assault, then you will find him guilty of robbery by assault and assess his punishment at imprisonment in the *penitentiary* for not less than five years nor more than life, provided you further find that any or all of the allegations set out in the second paragraph of the indictment herein are untrue, or if you have a reasonable doubt as to the truth of any or all of said allegations, and the form of your verdict will be as follows:

> "We the jury find the defendant guilty of robbery by assault as charged in the first paragraph of the indictment herein, and fix his punishment at ..... years confinement in the penitentiary."

If you should find the defendant not guilty as set out in the first paragraph of the indictment herein, charging the offense of robbery by assault, then you will disregard the second paragraph of the indictment herein, and find the defendant not guilty.

The indictment in this cause, in addition to the first paragraph thereof, also alleges in the second paragraph thereof that the defendant, before the date alleged in the first paragraph of the said indictment, committed

[fol. 34] and was duly, legally and finally convicted of a felony less than capital, and one of like character as alleged in the first paragraph thereof, to wit: The offense of bank robbery, upon an indictment then pending in the United States District Court for the Southern District of Texas, Victoria Division, in Cause No. CR649.

To each of said paragraphs of the indictment herein the defendant has placed that the allegations in said paragraph are not true.

If you should find and believe from the evidence beyond a reasonable doubt that the defendant is guilty of robbery by assault as charged in the first paragraph of the indictment, and you further find and believe from the evidence that the State has proven to your minds beyond a reasonable doubt that the defendant, prior to the commission of the offense by him, if any be committed, on the 13th day of December, 1963, as alleged in the first paragraph of the indictment herein, was duly and legally convicted in the United States District Court for the Southern District of Texas, Victoria Division, in Cause No. CR649 on the docket of said court, of the offense of bank robbery upon an indictment then pending in such court of a felony offense less than caiptal, and of like character with the offense of robbery by assault, which indictment, if any, was then legally pending in said last named court, and of which the said court had jurisdiction, and that said conviction, if any, was a final conviction, and was a conviction which became final prior to the commission, if any, of the offense charged against said defendant in the first paragraph of the indictment herein, and that each and all of the allegations set out in the first and second paragraphs of the indictment herein are true, then you will find the defendant guilty of robbery by assault as charged in the first paragraph of the indictment herein, and that each and all of the allegations set out in the second paragraph of the indictment herein are true, and the form of your verdict will be as follows:

"We the jury find the defendant guilty of Robbery by Assault, as charged in the first paragraph of the indictment herein, and we further find that each and all of the allegations set out in the second paragraph

of the indictment herein, charging a final conviction for the offense of bank robbery are true."

[fol. 35] If you find the defendant not guilty as charged in the first paragraph of the indictment herein, charging the offense of robbery by assault, then you will disregard the second paragraph of the indictment and find the defendant not guilty, and the form of your verdict will be as follows:

"We, the jury, find the defendant not guilty."

13.

You are further charged that even though you may find and believe from the evidence beyond a reasonable doubt that the defendant committed and was convicted of the offense charged in the second paragraph of the indictment herein, yet, you are instructed that you cannot consider such commission, if any, or conviction, if any, or any evidence relating thereto, if any, in passing upon the issue of the guilty, if any, or the innocence, if any, of the defendant for the offense set out in the first paragraph of the indictment herein.

14.

You are further instructed that all of the offenses referred to in the indictment herein are felonies less than capital and are of like character.

15.

In case you find the defendant guilty of every *allegationd* contained in the first paragraph of the indictment and further find that each and all of the allegations set out in the second paragraph of the indictment are true, then your verdict should conform to the second form of verdict set out in this charge and in such event you will not affix any number of years as punishment for the defendant as the punishment in such cases is fixed by law and same shall be adjudged by the Court after the return of your verdict duly signed by your foreman.

16.

You are further instructed that the law provides that the failure of the defendant to testify shall not be taken as a circumstance against him, and you must not allude to, comment on or discuss in your deliberations the failure of the defendant to testify in this case.

If you find the defendant not guilty, you will simply say so in your verdict, signed by your foreman.

[fol. 36] If you find the defendant guilty, you must not decide his punishment by lot or chance but simply state for what offense and assess the propr penalty therefor.

You cannot make any report to the court or receive any advice from the court except in open court by communication either verbal or written.

I hand you herewith on separate sheets of paper, forms of verdict in accordance with the various verdicts that may be rendered in this case, and you are instructed that you will adopt the form which is in accordance with your findings, having the same signed by your foreman, whom you will select from your number when you retire, and return your verdict into open court.

/s/ CHARLES SHERRILL
Judge Presiding

* * * *

[fol. 37]

IN THE CRIMINAL DISTRICT COURT
OF UPTON COUNTY, TEXAS

No. 304

[File Endorsement Omitted]

[Title Omitted]

OBJECTIONS TO COURT'S CHARGE—Filed August 12, 1964

COMES NOW, the Defendant, ROBERT A. BELL, JR., in the above numbered and entitled cause and objects to the Courts charge as follows:

(1) That the charge to the Court on prior offense of the Defendant is prejudicial and to allow the jury to consider the same is a denial of the Defendant's right to a fair and impartial trial and denial of due process of law under the constitution of the United States.

/s/ HOWARD O. LAKE
HOWARD O. LAKE
Attorney for Defendant
405 Scanlan Building
Houston 2, Texas CA 4-9249

ORDER—August 12, 1964

The above objections to the Court's Charge being this the 12th day of August, 1964, submitted and considered by the Court and the same is hereby overruled by the Court.

/s/ CHARLES SHERRILL
Judge

Excepted To

/s/ HOWARD O. LAKE
HOWARD O. LAKE
Attorney for Defendant

[fol. 38]

IN THE DISTRICT COURT
OF UPTON COUNTY, TEXAS
112TH JUDICIAL DISTRICT

No. 304

[File Endorsement Omitted]

THE STATE OF TEXAS

*v.*

ROBERT A. BELL, JR.

JUDGMENT—August 21, 1964

This day this cause was called for trial, and the State appeared by her District Attorney and the defendant, Robert A. Bell, Jr., appeared in person, his counsel also being present, and both parties announced ready for trial, and the defendant, Robert A. Bell, Jr., in open court pleaded not guilty to the charge contained in the indictment herein, thereupon, a jury, to-wit:

A. J. McDonald, and eleven others, was duly selected, impaneled, and sworn, who, having heard the indictment read, the defendant's plea of not guilty thereto, and having heard the evidence submitted, and having been duly charged by the Court, retired in charge of the proper officer to consider their verdict, and afterward were brought into open court by the proper officer, the defendant and his counsel being present, and in due form of law returned into open court the following verdict, which was received by the Court, and is here now entered upon the minutes of the Court, to-wit:

> "We, the Jury, find the defendant guilty of robbery by assault, as charged in the first paragraph of the indictment herein, and we further find that each and all of the allegations set out in the second paragraph of the indictment herein, charging a final conviction for the offense of bank robbery, are true.
>
> /s/ A. J. MCDONALD, Foreman"

Whereas, his punishment if fixed by law as confinement in the state penitentiary for life

IT IS THEREFORE CONSIDERED AND ADJUDGED by the Court that the Defendant Robert A. Bell, Jr. is guilty of the offense of robbery by assault and a prior like offense as found by the jury and that he be punished by confinement in the State Penitentiary for life, and that the State of Texas do have and recover of the said defendant Robert A. Bell, Jr. all costs in this prosecution expended, for which let execution issue; and that the said defendant be remanded to jail to await the [fol. 39] further orders of the Court herein.

Entered this the 21st day of August, 1964.

/s/ CHARLES SHERRILL
Judge Presiding.

[fol. 40]

IN THE DISTRICT COURT
OF UPTON COUNTY, TEXAS

JUNE TERM, 1964

No. 304

[Title Omitted]

SENTENCE—August 21, 1964

This day this cause being again called, the State appeared by her County Attorney, and the defendant Robert A. Bell, Jr., accompanied by his attorney, Aubrey Edwards was brought into open Court in person, in charge of the Sheriff, for the purpose of having the sentence of the law pronounced in accordance with the * Verdict of the Jury herein rendered and entered against him on a former day of this term. And thereupon the defendant Robert A. Bell, Jr. was asked by the Court whether he had anything to say why said sentence should not be pronounced against him and he answered nothing in bar

thereof. Whereupon the Court proceeded, in the presence of the said defendant Robert A. Bell, Jr. to pronounce sentence against him as follows:

It is the order of the Court that the defendant Robert A. Bell, Jr. who has been adjudged to be guilty of Robbery and whose punishment has been assessed by * verdict of the Jury and the Laws of this State applied thereto at confinement in the penitentiary for Life, be delivered by the Sheriff of Upton County, Texas, immediately to the Director of Corrections of the Texas Department of Corrections, or other person legally authorized to receive such convicts, and the said Robert A. Bell, Jr. shall be confined in said penitentiary for a term of not less than 5 years nor more than Life in accordance with the provisions of the law governing the penitentiaries and the Texas Department of Corrections. And the said Robert A. Bell, Jr. is hereby remanded to jail until said Sheriff can obey the directions of this sentence.

/s/ Charles Sherrill, Judge
112th Judicial District Court, Upton County, Texas

* * * *

[fol. 41]

IN THE DISTRICT COURT
OF UPTON COUNTY, TEXAS
112TH JUDICIAL DISTRICT

No. 304

[File Endorsement Omitted]

[Title Omitted]

BILL OF EXCEPTION No. 1—Filed September 28, 1964

BE IT REMEMBERED that upon the call of the foregoing cause for trial the Defendant filed a Motion to Quash the Indictment in said cause for the following reasons:

"That the indictment herein alleges as a part of the indictment the primary count of robbery by assault and

the prior conviction of the Defendant on another offense, and is prejudicial and inflammatory to the jury and precludes the Defendant from his constitutional right under the 6th amendment of the Constitution of the United States to be tried by a fair and impartial jury and likewise a denial of due process under the 5th and 14th amendments of the Constitution of the United States."

AND BE IT FURTHER REMEMBERED that the Court, in all things, overruled the Defendant's Motion and that the Defendant duly and timely, in open court, excepted to the ruling of the Court; and Defendant here, now, tenders this, his formal Bill of Exception No. 1, and requests that same be approved and ordered filed as a part of the record in this cause on appeal.

Respectfully submitted,

BULLOCK, KERR & SCOTT
P. O. Drawer 1707
Fort Stockton, Texas, 79735

/s/ THOMAS R. SCOTT

By: THOMAS R. SCOTT

Attorney For Defendant,
ROBERT A. BELL, JR.

The above and foregoing Defendant's Bill of Exception No. 1, having been timely presented to me and having been by me submitted to the attorney for the State of Texas, and having been examined by me and found to truly reflect the matters and things therein complained of, transpired as therein recited, the same is hereby by me approved officially and ordered filed as a part of the record of this cause on appeal this 24 day of September, 1964.

/s/ CHARLES SHERRILL
CHARLES SHERRILL
District Judge

[fol. 42]

[Clerk's Certificate to foregoing transcript omitted in printing.]

[fol. 43]

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

No. 37,655

ROBERT A. BELL, JR., APPELLANT

*v.*

THE STATE OF TEXAS, APPELLEE

Appeal from Upton County

OPINION—February 3, 1965

The offense is robbery by assault with a prior conviction for an offense of the same nature alleged for enhancement; the punishment, life.

Manager Wolfrum and Assistant Manager Ridgeway of Evans Foodway in McCamey testified that right at closing time at about 7:00 p.m. on the night in question appellant asked to be admitted to the store in order to purchase some milk and bread, but that after gaining entrance he robbed them of a sum of money in excess of one thousand dollars in bills and silver by exhibiting a gold plated pistol. Wolfrum identified the money bag containing the silver as belonging to his cash register No. 1.

Highway Patrolmen Barber and Hager testified that they were notified of the robbery, and at 7:30 p.m. on the same evening as they were preparing to set up a road block some 30 miles from McCamey, they observed a Chevrolet pass them, proceed a distance west, then turn around and start traveling east. They stated that they gave chase, clocked the Chevrolet's speed, found that it was exceeding the speed limit, stopped it and gave the appellant, its sole occupant, a speeding ticket. As they were talking to appellant they looked in the Chevrolet and saw a gold plated pistol lying on the front seat. Thereafter, they opened the doors and discovered Mr. Wolfrum's money bag full of coins and a large amount of currency lying loose on the floor board under the front seat. On the back seat they found a rifle, and two more were found in the trunk of the 1964 Chevrolet.

The prior conviction for robbery by assault was established.

Appellant did not testify but called his mother, who testified that he had been committed to a mental institution at one time and was in a severe emotional state at [fol. 44] the time of the robbery because he had not money, his wife was expecting a baby, and he was out of of a job, and expressed the opinion that when he was in one of those emotional spells he did not know the difference between right and wrong.

Sheriff Echols testified that he had known appellant since his youth and had observed him daily and conversed with him many times during the eight months he had him in jail after the robbery and prior to the trial. He stated that in his opinion appellant was normal and knew the difference between right and wrong. He based his opinion on his observation of more than 50 mentally ill people confined in his jail during his tenure in office.

Deputy Sheriff Langford testified that he had observed appellant since he had been in jail, but had noticed nothing wrong with him mentally and expressed the opinion that he knew the difference between right and wrong on the night of his arrest and thereafter.

The sole question properly presented for review is the court's failure to quash the indictment because it contained the allegation of the prior conviction which appellant alleges precluded him from securing a fair and impartial jury. It is essential under Article 62, V.A.P.C., that the indictment charge the prior coviction in order for the State to prove the same.

Though not properly raised on appeal, we do observe that appellant did not elect to stipulate the prior conviction as this Court suggested in Salinas v. State, 365 S. W. 2d 362; Pitcock v. State, 367 S. W. 2d 864; Ex Parte Reyes, 383 S. W. 2d 804, and McDonald v. State, —— S. W. 2d ——, 37,050 (October 14, 1964).

Finding the evidence sufficient to support the conviction and no reversible error appearing, the judgment is affirmed.

MORRISON, Judge

(Delivered February 3, 1965)

[fol. 45]

## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

CLERK'S CERTIFICATE AS TO JUDGMENT AND OVERRULING OF APPELLANT'S MOTION FOR REHEARING—April 12, 1965

I, GLENN HAYNES, Clerk of the Court of Criminal Appeals of Texas, do hereby certify that in Cause No. 37,655 styled:

ROBERT A. BELL, JR., APPELLANT

*vs.*

THE STATE OF TEXAS, APPELLEE

judgment of the 112th Judicial District Court of Upton County was affirmed, on February 3, 1965, Appellant's Motion for Rehearing overruled without written opinion on March 17, 1965 and mandate issued on March 19, 1965.

Therefore, with the overruling of Appellant's Motion for Rehearing, this cause was disposed of by this Court on March 17, 1965, appellant having exhausted all remedies in this, The Court of Criminal Appeals of Texas and said judgment has now become final on the docket of this Court.

WITNESS my hand and seal of said Court, at office, in Austin, Texas, the 12th day of April, A.D. 1965.

/s/ Glenn Haynes
Clerk
Court of Criminal Appeals of Texas

[fol. 46]

SUPREME COURT OF THE UNITED STATES

No. 128 Misc., October Term, 1965

ROBERT A. BELL, JR., PETITIONER

*v.*

TEXAS

On petition for writ of Certiorari to the Court of Criminal Appeals Court of the State of Texas.

ORDER GRANTING MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND GRANTING PETITION FOR WRIT OF CERTIORARI—January 31, 1966

On consideration of the motion for leave to proceed herein *in forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed *in forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted. The case is transferred to the appellate docket as No. 968 and placed on the summary calendar.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1966 213740 733